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| APPLICATION NO.  | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|--|-------------|----------------------|---------------------|------------------|
| 09/683,595   | 01/23/2002  | Jim Sowerwine        | 1370.01             | 6408             |
| 21901  | 7590        | 05/16/2005           | EXAMINER            |                  |
| SMITH & HOPEN PA<br>15950 BAY VISTA DRIVE<br>SUITE 220<br>CLEARWATER, FL 33760 |             |                      | HUNTER, ALVIN A     |                  |
|  |             |                      | ART UNIT            | PAPER NUMBER     |
|  |             |                      | 3711                |                  |

DATE MAILED: 05/16/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/683,595

Applicant(s)

SOWERWINE, JIM

Examiner

Alvin A. Hunter

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 21 December 2004.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 14-21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 14-21 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Claim Rejections - 35 USC § 103*

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

1. Claims 14-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Marier, Jr. (USPN 5375833) in view of Molley (US 2002/0098901).

Regarding claims 14-16, Marier, Jr. discloses a golf practice device for assisting in developing a proper swing (See Summary of the invention). The device comprises an elevated path guidance means **12**, vertical column **18**, support **14**, base **16**, and support arm **20** (See Entire Document). The elevated path guide means are two cylindrical rods in which separate from the device upon impact of a club and it is noted that the elevated path guide means may also be one continuous rod (See Column 2, lines 23 through 59). The elevated guide means, in which provides a reference in which the swing should correctly arc, is connected to the vertical column by means of the support arm via T-joint, or what the applicant calls a cradle interface (See Summary of the Invention and Column 2, lines 23 through 37). It is noted that various fasteners and clamps may be used on the support arm for holding the rods (See Column 2, lines 56 though 59). Though Marier, Jr. prefers the elevated path guide means to extend in two directions, the device can be used in the same manner as that of the applicant's. It is also clearly apparent that the rods can be reversibly engaged. Furthermore, Marier, Jr. discloses

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the support arm being pivotable only to allow the user to align the device with target as desired. The device can and is capable of being align in a parallel relation to the line if desired by the user. Marier, Jr. does not disclose having a cushioning material on the guide means. Molley discloses a golf swing training device having a polyethylene foam sleeve **28** covering a predetermined extent of the end of a bar **18** (See Abstract, Paragraph 0016, and Figure 2). Due to the fact that the foam is used as a cushioning element, it is submitted that the foam is low in density. One having ordinary skill in the art would have found it obvious to incorporate a cushioning means, as taught by Molley, in order to cushion the guide means. It is submitted that the material is low in density being that it serves as a cushion or dampener.

Regarding claims 17 and 18, Applicant does not disclose why a magnetic coupling or a hoop and loop fastener is critical for engaging the guide means to the cradle interface. Applicant claims that the guide means may be press fitted to the cradle interface also in which Marier, Jr. teaches. One having ordinary skill in the art would have found such to be an obvious matter of design choice. Applicant has not specified what advantages that the magnetic coupling or hook and loop fastener has over press fitting. The press fit of Marier, Jr. would perform equally as well because it facilitates attachment of the guide members to the cradle interface.

2. Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over the prior art, as applied to claim 14 above, in view of Macri (USPN 3554555) and admitted prior art.

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The prior art, as applied to claim 14 above, does not disclose an elevated guide means engaged to a cradle interface by a magnet. Macri discloses a golf training device in which aids a golfer in perfecting his/her swing (See Background of Invention). The device comprises a trapezoidal arm **14** connected to a spring clip by a magnet (See Entire Document). The magnet cooperates in releasing the trapezoidal arm upon impact from a club (See Column 3, lines 16 through 24). It is noted in Column 3, lines 1 through 15, that the shape of the arms may vary. One having ordinary skill in the art would have found it obvious to use a magnet, as taught by Macri, in order to further facilitate attachment of the guide means to the cradle interface.

3. Claim 18 is rejected under 35 U.S.C. 103(a) as being unpatentable over the prior art as applied to claim 14 above in view of McCormick (USPN 5676604).

The prior art as applied to claim 14 above does not disclose using hook and loop fasteners for securing the elevated path guide means to the cradle interface.

McCormick discloses a golf training device in which two saddles **36** with VELCRO™ on one side are attached to a swing arm (28) that is attached to club head guide **22** (See Column 2). The VELCRO™ serves to hold the club head guide **22** in place until dislodged due to contact of a golf club (See Summary of the Invention). One having ordinary skill in the art would have found it obvious to use hook and loop fasteners, as taught by McCormick, in order to further facilitate attachment between the guide arms and the cradle interface.

4. Claims 19 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over the art as applied to claim 14 above in view of admitted prior art

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It is admitted prior art that a V-shaped base configuration is common within art for supporting structures. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have a V-shaped base configuration having a juncture being that it is common within the art for supporting structures. It also admitted prior art that is common within the art to place weight on the end of elements to stabilize and further support structures. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to place weights on the distal ends of the base in order to stabilize the device while in use and to further support the device.

5. Claim 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over The prior art as applied to claim 20 above further in view of Lambert (USPN 3886700).

The prior art as applied to claim 20 above does not disclose having an assembly guide cord to assisting in assembling and disassembling the device. Lambert discloses a collapsible structure comprising a plurality of elongated element attached together by a flexible strand in order to facilitate easy assembly and collapsibility (See Entire Document). One having ordinary skill in the art would have found it obvious to have a guide cord connecting a plurality of member, as taught by Lambert, in order to allow easy assembly and collapsibility. The applicant does not disclose why it is critical for the assembly guide cord to be elastic, therefore, would have been an obvious design choice. One having ordinary skill in the art would have found the assembly cord of Lambert to perform equally as well being that the both perform the same function, which is connecting a plurality of members in order to allow easy assembly and collapsibility.

***Response to Arguments***

Applicant's arguments with respect to claims 14-21 have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alvin A. Hunter whose telephone number is (571) 272-4411. The examiner can normally be reached on Monday through Friday from 7:30AM to 4:00PM Eastern Time.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gregory Vidovich, can be reached on 571-272-4415. The fax phone


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number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

AAH

Alvin A. Hunter, Jr.

  
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